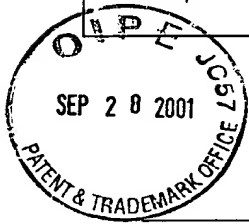


I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EL 7746US, in an envelope addressed to: Attention: Office of Petitions, Commissioner for Patents, Washington, DC 20231, on the date shown below.

Dated: September 28, 2001

Signature: R. Ross Viguet  
(R. Ross Viguet)



Docket No.: 47586/P055US/10025093  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Scot D. Gordon, et al.

Application No.: 09/930,662

Group Art Unit: N/A

Filed: August 15, 2001

Examiner: Not Yet Assigned

For: METHODS TO DYNAMICALLY ADJUST  
THE SECTORIZATION OF A CDMA CELL

**PETITION UNDER 37 C.F.R. 1.53(e)**

Attention: Office of Petitions  
Commissioner for Patents  
Washington, DC 20231

**RECEIVED**  
OCT 31 2001  
OFFICE OF PETITIONS

Dear Sir:

Applicants hereby petition the Office to grant a filing date in accordance with the original submission of papers to the Office with respect to the above identified patent application, that date being August 15, 2001, and hereby request review of the Notice of Incomplete Nonprovisional Application mailed September 24, 2001 with respect thereto. Applicants have included herewith the petition fee of \$130.00 provided under 37 C.F.R. 1.17(h) by way of authorization to deduct same from Applicants' attorney's deposit account 06-2380. However, Applicants request that the petition fee be refunded to Applicants' attorney's deposit account upon granting of this petition.

Applicants respectfully assert both that the drawings indicated as missing in the Notice of Incomplete Nonprovisional Application were submitted with the original filing and that the drawings are not necessary under 35 U.S.C. § 113, first sentence, for a filing date. Accordingly, Applicants respectfully request that a filing date corresponding to the original submission date, August 15, 2001, be granted.

In support of Applicants position that the drawings at issue were included in the originally submitted filing papers, Applicants have attached hereto a true and correct copy of a date-stamped postcard receipt expressly setting forth that three drawing sheets were

10/03/2001 MBELETE1 00000027 062380 09930662

received by the Office in the Express Mail packet posted August 15, 2001. Moreover, a review of Applicants' attorney's file reveals that the draftsman's envelope received by Applicants' attorney which typically includes two original copies of the drawings (one of which is for filing with the patent application and the other of which is for Applicants' attorney's file) includes only a single copy of the three drawing pages. In light of the date-stamped receipt showing receipt of three drawing sheets and the fact that only one copy of three drawing sheets remains in Applicants' attorney's file, one can logically only conclude that the three drawing sheets were submitted with the present application. Therefore, Applicants respectfully petition the Office to grant a filing date of August 15, 2001 with respect to the present application.

Moreover, Applicants respectfully assert that the Notice of Incomplete Nonprovisional Application in the present case was issued in error and, instead, the facts with respect to the present application should have resulted in the Office issuing a Notice of Omitted Items and according the application the original filing date. Specifically, Applicants point out that the present application includes at least one method claim, see e.g. claims 18-36. It is Office policy that applications including at least one method claim are to be treated as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. § 113, first sentence, see M.P.E.P. § 601.01(f). Moreover, Office policy requires that applications which refer to drawings which are not included with the original filing, which include at least one method claim, and which contain something that can be construed as a written description are to be treated as if the application was filed without all of the drawing figures, see *Id.* In such a situation, a filing date is to be accorded the originally submitted papers and a Notice of Omitted Items is to be issued to allow the submission of additional drawing figures if desired/necessary, see M.P.E.P. § 601.01(g).

Accordingly, Applicants respectfully petition the Office to grant the filing date of the original submission date, August 15, 2001.

Dated: September 28, 2001

Respectfully submitted,

By R. Ross Viguet  
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Atty Docket No.: 47586/P055US/10025093

Inventor: Scot D. Gordon, et al.

Atty Docket No.: 47586/P055US/10025093

Application No.: N/A

Filing Date: August 15, 2001

Title: SYSTEM AND METHOD FOR DYNAMICALLY ADJUSTING CELL SECTORIZATION

**Documents Filed:**

Utility Patent Application (30 pages)  
Nonpublication Request  
Utility Patent Transmittal Letter and Check \$638.00  
Fee Transmittal  
Declaration by Inventors  
Power of Attorney by Assignee  
Assignment and Check in the amount of \$40.00  
Assignment Recordal Sheet  
Drawings (3 pages)

AUG 27 2001



Via: Express Mail #EL315114237US /Metawave  
Sender's Initials: RRV/rc

Date: August 15, 2001

SEP 04 2001

DD done 10/15/2001